

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION (CINCINNATI)**

JOSE LARA,

Plaintiff,

v.

BARCLAYS BANK DELAWARE and
LTD FINANCIAL SERVICES, L.P.,

Defendants.

Docket No. 1:22-cv-00603-DRC

**DEFENDANTS BARCLAYS BANK DELAWARE
AND LTD FINANCIAL SERVICES, L.P.’S
ANSWER AND AFFIRMATIVE DEFENSES TO PLAINTIFF’S COMPLAINT**

Defendants Barclays Bank Delaware (“Barclays”) and LTD Financial Services, L.P. (“LTD” and collectively “Defendants”), by and through their undersigned counsel, hereby files its Answer and Affirmative Defenses to the Complaint (“Complaint”) of plaintiff Jose Lara (“Plaintiff”), and further states as follows:

1. Answering Paragraph 1 of the Complaint, Defendants admit only that Plaintiff purports to raise causes of action for violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, et seq. ("FDCPA"); but deny that they violated the FDCPA and denies that Plaintiff is entitled to any relief whatsoever from Defendants.

AS TO “PARTIES”

2. Answering Paragraph 2 of the Complaint, Defendants are without knowledge or information sufficient to form a belief as to—the truth of the allegations regarding Plaintiff’s residency and, as such, the allegations are denied. To the extent any other response is required, denied.

3. Answering Paragraph 3 of the Complaint, the allegations in this paragraph sets forth legal conclusions to which no response is required. To the extent any other response is required, Defendants deny any allegation inconsistent with the plain text of the referenced statutes.

4. Answering Paragraph 4 of the Complaint, the allegations in this paragraph refer to a writing, the contents of which speaks for itself. Defendants deny any allegation inconsistent with the plain text of the referenced writing.

5. Answering Paragraph 5 of the Complaint, the allegations in this paragraph refer to a writing, the contents of which speaks for itself. Defendants deny any allegation inconsistent with the plain text of the referenced writing.

6. Answering Paragraph 6 of the Complaint, the allegations in this paragraph sets forth legal conclusions to which no response is required. To the extent any other response is required, Defendants deny any allegation inconsistent with the plain text of the referenced statutes.

AS TO “JURISDICTION AND VENUE”

7. Answering Paragraph 7 of the Complaint, the allegations in this paragraph sets forth legal conclusions to which no response is required. To the extent any other response is required, Defendants deny any allegation inconsistent with the plain text of the referenced statutes.

8. Answering Paragraph 8 of the Complaint, the allegations in this paragraph sets forth legal conclusions to which no response is required. To the extent any other response is required, Defendants deny any allegation inconsistent with the plain text of the referenced statutes.

9. Answering Paragraph 9 of the Complaint, the allegations in this paragraph sets forth legal conclusions to which no response is required. To the extent any other response is required, Defendants deny any allegation inconsistent with the plain text of the referenced statutes.

AS TO “FACTUAL ALLEGATIONS”

10. Answering Paragraph 10 of the Complaint, Defendants are without knowledge or information sufficient to form a belief as to—the truth of the allegations, as such, the allegations

are denied. To the extent any other response is required, denied. In further response, the allegations in this paragraph refer to a writing, the contents of which speaks for itself. Defendants deny any allegation inconsistent with the plain text of the referenced writing and deny knowledge or information sufficient to form a belief as to the veracity of said writing.

11. Answering Paragraph 11 of the Complaint, Defendants are without knowledge or information sufficient to form a belief as to—the truth of the allegations, as such, the allegations are denied. To the extent any other response is required, denied. In further response, the allegations in this paragraph refer to a writing, the contents of which speaks for itself. Defendants deny any allegation inconsistent with the plain text of the referenced writing and deny knowledge or information sufficient to form a belief as to the veracity of said writing.

12. Answering Paragraph 12 of the Complaint, Defendants are without knowledge or information sufficient to form a belief as to—the truth of the allegations, as such, the allegations are denied.

13. Answering Paragraph 13 of the Complaint, Defendants are without knowledge or information sufficient to form a belief as to—the truth of the allegations, as such, the allegations are denied. To the extent any other response is required, denied. In further response, the allegations in this paragraph refer to a writing, the contents of which speaks for itself. Defendants deny any allegation inconsistent with the plain text of the referenced writing and deny knowledge or information sufficient to form a belief as to the veracity of said writing.

14. Answering Paragraph 14 of the Complaint, Defendants are without knowledge or information sufficient to form a belief as to—the truth of the allegations, as such, the allegations are denied. To the extent any other response is required, denied.

15. Answering Paragraph 15 of the Complaint, Defendants are without knowledge or information sufficient to form a belief as to—the truth of the allegations, as such, the allegations are denied. To the extent any other response is required, denied.

16. Answering Paragraph 16 of the Complaint, Defendants are without knowledge or information sufficient to form a belief as to—the truth of the allegations, as such, the allegations are denied. To the extent any other response is required, denied.

17. Answering Paragraph 17 of the Complaint, Defendants are without knowledge or information sufficient to form a belief as to—the truth of the allegations, as such, the allegations are denied. To the extent any other response is required, denied.

18. Answering Paragraph 18 of the Complaint, Defendants are without knowledge or information sufficient to form a belief as to—the truth of the allegations, as such, the allegations are denied. To the extent any other response is required, denied.

19. Answering Paragraph 19 of the Complaint, Defendants are without knowledge or information sufficient to form a belief as to—the truth of the allegations, as such, the allegations are denied. To the extent any other response is required, denied.

20. Answering Paragraph 20 of the Complaint, denied as alleged.

21. Answering Paragraph 21 of the Complaint, Defendants are without knowledge or information sufficient to form a belief as to—the truth of the allegations, as such, the allegations are denied. To the extent any other response is required, denied.

22. Answering Paragraph 22 of the Complaint, Defendants are without knowledge or information sufficient to form a belief as to—the truth of the allegations, as such, the allegations are denied. To the extent any other response is required, denied.

23. Answering Paragraph 23 of the Complaint, Defendants are without knowledge or information sufficient to form a belief as to—the truth of the allegations, as such, the allegations are denied. To the extent any other response is required, denied.

24. Answering Paragraph 24 of the Complaint, denied as alleged.

25. Answering Paragraph 25 of the Complaint, Defendants are without knowledge or information sufficient to form a belief as to—the truth of the allegations, as such, the allegations

are denied. To the extent any other response is required, denied. In further response, the allegations in this paragraph refer to a writing, the contents of which speaks for itself. Defendants deny any allegation inconsistent with the plain text of the referenced writing and deny knowledge or information sufficient to form a belief as to the veracity of said writing.

26. Answering Paragraph 26 of the Complaint, Defendants are without knowledge or information sufficient to form a belief as to—the truth of the allegations, as such, the allegations are denied. To the extent any other response is required, denied. In further response, the allegations in this paragraph refer to a writing, the contents of which speaks for itself. Defendants deny any allegation inconsistent with the plain text of the referenced writing and deny knowledge or information sufficient to form a belief as to the veracity of said writing.

27. Answering Paragraph 27 of the Complaint, denied as alleged.

28. Answering Paragraph 28 of the Complaint, the allegations in this paragraph sets forth legal conclusions to which no response is required. To the extent any other response is required, Barclays denies any allegation inconsistent with the plain text of the referenced statutes.

29. Answering Paragraph 29 of the Complaint, denied.

AS TO “COUNT 1”

30. Answering Paragraph 30 of the Complaint, Defendants incorporates by reference all responses to the above paragraphs of the Complaint as though fully stated herein.

31. Answering Paragraph 31 of the Complaint, the allegations in this paragraph sets forth legal conclusions to which no response is required. To the extent any other response is required, Defendants deny any allegation inconsistent with the plain text of the referenced statutes.

32. Answering Paragraph 32 of the Complaint, the allegations in this paragraph sets forth legal conclusions to which no response is required. To the extent any other response is required, Defendants deny any allegation inconsistent with the plain text of the referenced statutes.

33. Answering Paragraph 33 of the Complaint, denied.

- 34. Answering Paragraph 34 of the Complaint, denied.
- 35. Answering Paragraph 35 of the Complaint, denied.
- 36. Answering Paragraph 36 of the Complaint, denied.
- 37. Answering Paragraph 37 of the Complaint, denied.

AS TO “COUNT 2”

38. Answering Paragraph 38 of the Complaint, Defendants incorporates by reference all responses to the above paragraphs of the Complaint as though fully stated herein.

39. Answering Paragraph 39 of the Complaint, the allegations in this paragraph refer to a writing, the contents of which speaks for itself. Defendants deny any allegation inconsistent with the plain text of the referenced writing and deny knowledge or information sufficient to form a belief as to the veracity of said writing.

40. Answering Paragraph 40 of the Complaint, the allegations in this paragraph refer to a writing, the contents of which speaks for itself. Defendants deny any allegation inconsistent with the plain text of the referenced writing and deny knowledge or information sufficient to form a belief as to the veracity of said writing.

- 41. Answering Paragraph 41 of the Complaint, denied.
- 42. Answering Paragraph 42 of the Complaint, denied.
- 43. Answering Paragraph 43 of the Complaint, denied.
- 44. Answering Paragraph 44 of the Complaint, denied.

AS TO “PRAYER FOR RELIEF”

In response to the section entitled “Prayer for Relief” following paragraph 44, Defendants deny any liability whatsoever, deny that Plaintiff is entitled to any damages, costs, fees, or other relief from or against Defendants, and demands judgment in its favor and against Plaintiff, together with such other relief, including costs and attorney’s fees, as the Court deems just and proper.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

Plaintiff fails to state any claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

Plaintiff's claims are barred by the doctrine of release and/or waiver.

THIRD AFFIRMATIVE DEFENSE

Plaintiff is barred from relief against Defendants inasmuch as any alleged harm suffered by Plaintiff was not caused in fact or proximately caused by any act or omission of Defendants.

FOURTH AFFIRMATIVE DEFENSE

To the extent that Plaintiff has suffered any damages as a result of the matters alleged in the Complaint, Plaintiff failed to mitigate his damages, if any.

FIFTH AFFIRMATIVE DEFENSE

Any and all damages sustained by Plaintiff are the direct result of his own actions or omissions or the acts or omissions of unrelated third parties over which Defendants had no control.

SIXTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred, in whole or in part, by the doctrines of unclean hands, estoppel, laches, acquiescence, and other doctrines of equitable relief.

SEVENTH AFFIRMATIVE DEFENSE

Defendants has acted in good faith and not willfully, maliciously, recklessly, wantonly, and/or negligently.

EIGHTH AFFIRMATIVE DEFENSE

Defendants has acted with due care at all times and complied with all applicable laws, regulations, and standards and otherwise acted reasonably.

NINTH AFFIRMATIVE DEFENSE

Defendants have not violated any duty or obligation owed to Plaintiff under common law, statute, any applicable contract, or other authority.

TENTH AFFIRMATIVE DEFENSE

To the extent Plaintiff claims Defendants breached a contract with Plaintiff, this claim fails as a result of Plaintiff having committed the first breach.

ELEVENTH AFFIRMATIVE DEFENSE

Plaintiff's FDCPA claim fails on the grounds that Defendants conduct was neither deceptive, misleading, harassing or otherwise constituted conduct in violation of the FDCPA.

TWELFTH AFFIRMATIVE DEFENSE

Plaintiff lacks Article III standing to pursue these claims.

THIRTEENTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred due to an absence of any actual damages. Hence, any statutory damages constitute an excessive fine and violate Defendants' rights under the Due Process and Takings Clause of the United States Constitution and/or applicable state constitutions.

FOURTEENTH AFFIRMATIVE DEFENSE

Plaintiff has not sufficiently alleged, and cannot establish, malice, willfulness, or negligence on the part of Defendants.

FIFTEENTH AFFIRMATIVE DEFENSE

Plaintiff is not entitled to punitive damages.

SIXTEENTH AFFIRMATIVE DEFENSE

Defendants reserves the right to compel Plaintiff to bring his claims against Defendants through arbitration, pursuant to the arbitration agreement between the parties contained in the account agreement governing the lending relationship between Plaintiff and Defendants that is at issue in this litigation.

SEVENTEENTH AFFIRMATIVE DEFENSE

Defendants reserves the right to assert additional defenses at such time and to such extent as warranted by Defendants and the factual developments of this case.

Dated: November 28, 2022

Respectfully Submitted:

/s/ John E. Joseph

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Delaware and LTD Financial Services, L.P.*

CERTIFICATE OF SERVICE

I hereby certify that on November 28, 2022, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will automatically send a notice of electronic filing to all persons registered for ECF as of that date.

/s/ John E. Joseph
John E. Joseph